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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,465	09/01/2004	Paul Blazevic	FISHER-C	8930
79341 7590 07/20/2009 KRUGLIAK, WILKINS, GRIFFITHS & DOUGHERTY CO, LPA 4775 MUNSON STREET N.W. P.O. BOX 36963 CANTON, OH 44735-6963				
EXAMINER				
KENNY, DANIEL J				
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3633				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/506,465

**Applicant(s)**

BLAZEVIC, PAUL

**Examiner**

DANIEL KENNY

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-28 and 30-35 is/are rejected.
- 7) ☒ Claim(s) 29 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 23 April 2009.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/23/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 3 – are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent (CN 2197409Y) in view of Chinese Patent (CN2368912 Y).

Utility Model Patent (CN2197409Y) discloses a formed (from steel pieces), rigid (the welded steel panel and the steel components that get welded are “rigid”, as they must resist high loads in the application) building panel comprising:

**Claim 1** - spaced apart walls (w) forming cells (c);

apertures (a) in said walls such that said walls forming each said cell include at least aperture;

a substantially planar skin (s) disposed adjacent and substantially perpendicular to said walls such that said cells are open on a side opposite said planar skin'

wherein the panel forms a structural part of a finished structure built using the panel (this limitation is met at least to the extent that the assembled forms constitute a "finished structure" as broadly recited, and the "panel forms a structural part" of this finished structure in that it is an essential, integral portion thereof).

UMP does not expressly disclose a projection extending beyond at least one perimeter portion of the panel, and a recessed section along one perimeter portion of the panel, sized and shaped to receive the projection of an adjacent panel.

CP discloses a projection (pro) extending beyond at least one perimeter portion of the panel, and a recessed section (recess) along one perimeter portion of the panel, sized and shaped to receive the projection of an adjacent panel.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the projection/recess of CP, locating such at the short ends of the UMP panel, because it does no more than yield predictable result of allowing adjacent panels to be connected with a "tight seal between the panels" (translation page 5).



Claim 3 – The CP-taught projection is formed by a portion of the skin.

Claims 1-6, 8, 9, 11-23, 25, 28, and 35 - are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent in view of Scull (2,276,071).

UMP discloses a panel comprising:

**Claim 1** - spaced apart walls (w) forming cells (c);

apertures (a) in said walls such that each of the walls forming each said cell include at least one aperture;

a substantially planar skin (s) disposed adjacent and substantially perpendicular to said walls such that said cells are open on a side opposite said planar skin.

UMP does not expressly disclose a projection extending beyond at least one perimeter portion of the panel, and a recessed section along one perimeter portion of the panel, sized and shaped to receive the projection of an adjacent panel.

Scull discloses a projection (pro) extending beyond at least one perimeter portion of a panel, and a recessed section (rec) along one perimeter portion of the panel, sized and shaped to receive the projection of an adjacent panel.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the projection/recess of Scull, locating such at the short ends of the UMP panel, because it does no more than yield predictable result of allowing adjacent panels to be connected with a "secure interlock" (page 1, col. 1, line 43).



First Annotated Fig. 2 (U.S. Pat. 2,276,071)

Claim 2 – The projection is formed by a portion of the skin.

Claims 3 and 4 – The skin comprises a beveled edge (bev) on at least two opposite edges of the skin.

Claim 8 - The skin covers the same area as the panel, but is offset relative to the panel, forming the projection and the recessed section along one or more perimeter portions of the panel.

Claim 9 - The cells have a square cross section.

Claims 11 and 13 – The choice of material is considered an obvious matter of design choice, as Applicant has not disclosed the criticality thereof.

Claim 12 – The panel is formed from metal.

Claims 14-16 – The spaced apart walls comprise a first set of substantially parallel spaced apart walls and a second set (ss) of substantially parallel spaced apart

walls, wherein said first set of spaced apart walls are substantially perpendicular to said second set of spaced apart walls, and the apertures in said substantially parallel walls are aligned.

Claim 17 - The apertures can inherently facilitate the passage therethrough of one or more of: reinforcing members, conduits, pipes, tubes, rods, cables.

Claims 18 and 19 - The panel comprises perimeter walls, which together define a rectangle.

Claim 35 – An inherently removable insert (5) in one or more of the cells.

Claims 1, 5, and 6 - UMP discloses a panel comprising:  
spaced apart walls (w) forming cells (c);  
apertures (a) in said walls such that each of the walls forming each said cell include at least one aperture;  
a substantially planar skin (s) disposed adjacent and substantially perpendicular to said walls such that said cells are open on a side opposite said planar skin.

UMP does not expressly disclose a projection extending beyond at least one perimeter portion of the panel, and a slot along a perimeter portion of the length and width of the panel, sized and shaped to receive the projection of an adjacent panel.



Scull discloses a projection (proj) extending beyond at least one perimeter portion of a panel, and a slot (slot) along a perimeter portion of the length and width of the panel, sized and shaped to receive the projection of an adjacent panel.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the projection/slot of Scull (a relatively shallow lengthwise slot only minimally reducing the effectiveness of the stress producing platform, and UMP teaching adjacent connected panels along this edge via the "connecting holes") because it does no more than yield predictable result of allowing adjacent panels to be connected with a "secure interlock" (page 1, col. 1, line 43).



Second Annotated Fig. 2 (U.S. Pat. 2,276,071)

Claims 20-23, 25, and 28 - are an obvious method of using the panel of Chinese Utility Model Patent modified by Scull.

Claim 24 – is rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent in view of Scull and in further view of Chinese Patent CP discloses the step of bolting panels together (translation page 5).

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the bolts of CP, because it does no more than yield predictable result of firmly securing adjacent panels at their ends.

Claims 26, 27, and 32 – are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent in view of Scull and in further view of Bertsche (5,809,722)

Bertsche discloses that it is old in the art to route rods (30) through aligned apertures (19) in a wall (18) in a reinforced concrete system.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the rods of Bertsche because it does no more than yield predictable result of securing them.

Claim 34 – is rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent in view of Scull and in further view of Azizinamini (6,871,462).

Azizinamini discloses that it is old in the art to form U-shapes (22) on the top of a wall (19) in a reinforced concrete system.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the U-shapes of

Aziznamini because it does no more than yield predictable result of easily securing rods.

Claims 30, 31, and 33 – are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent modified by Scull in view of Lu (5,092,093).

Chinese Utility Model Patent modified by Scull discloses a method of constructing a building structure as described above, but does not disclose the step of securing a second of the building panel in the orientation spaced apart from the first panel. Lu discloses coupling (with reinforcing member, 5) building panels (2,4) spaced apart, wherein cells of a first panel face cells of a second panel (Figs. 3 and 5), and introducing concrete therebetween (col. 1, line 32).

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the spaced /coupled panels of Lu because it does no more than yield predictable result of forming a concrete wall.

Claim 32 – is rejected under 35 U.S.C. 103(a) as being unpatentable over Chinese Utility Model Patent in view of Scull and Lu and in further view of Chinese Patent

CP discloses the step of bolting panels together (translation page 5).

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of UMP with the bolts (which

are reinforcing members as broadly recited) of CP, because it does no more than yield predictable result of firmly securing adjacent panels at their ends.

Claims **20**, **27** and **28** – is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000257196 in view of Mayrand (5,551,204) and Scull.

JP discloses a method of constructing a building structure in a particular orientation from a plurality of formed, rigid building panels, each building panel comprising:

- a plurality of spaced apart walls forming a plurality of cells;
- apertures in two of the outside walls;
- a substantially planar rigid skin disposed adjacent and substantially perpendicular to said walls such that said cells are open on a side opposite said planar skin;

said method including the steps of:

- securing a first building panel in said orientation; and
- abutting a second building panel against said first building panel (Figs. 3 and 4);

wherein said building panels form structural parts of the finished building structure.

Mayrand discloses that it is old in the art to have apertures (16) in walls. It would have been obvious to one of ordinary skill in the art at the time the present invention was made to include the Mayrand-taught apertures in all the JP walls to allow concrete to flow between the cells and lock the walls into the surrounding concrete slab.

Mayrand discloses the step of routing one or more reinforcing rod members (17) through aligned apertures of the walls.

Scull discloses a projection (pro) extending beyond at least one perimeter portion of a panel, and a recessed section (rec) along one perimeter portion of the panel, sized and shaped to receive the projection of an adjacent panel, and abutting a second building panel against said first building panel (Figs. 3 and 4) such that the projection of the first building panel and the recessed section of the second building panel overlap.

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to combine the familiar panel of JP with the projection/recess of Scull, because it does no more than yield predictable result of allowing adjacent panels to be connected with a "secure interlock" (page 1, col. 1, line

#### ***Allowable Subject Matter***

Claims 29 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Regarding the argument that both references disclose formwork, etc., the claim limitation reads on the references as described in the rejection above. Applicants related argument that these are two different types of formwork having different

features, materials, and assembly constructions is not persuasive, as they are both forms, and it is not the material or assembly details part of the secondary reference that gets combined with the primary reference; rather, it is the projection/recess, which can reasonably be included in the primary reference, UMP, for the reason stated in the rejection.

Regarding Scull, it is reasonable to believe that one skilled in the art would look to such a wall panel when modifying a form panel.

Regarding claim 34 and Azizinamini, this reference teaches appears to teach U-shapes for the same purpose as in the claimed invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL KENNY whose telephone number is (571)272-9951. The examiner can normally be reached on Mon-Fri. 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571 272 6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. K./  
Examiner, Art Unit 3633

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633